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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,003	01/17/2001	Evgeny Ivanovich Temovsky	U 013214-0	1522

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EXAMINER

SY, MARIANO ONG

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 04/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,003

Applicant(s)

TERNOVSKY ET AL.

Examiner

Mariano Sy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 2-7, 9-12 and 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 8 and 13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's election of Specie E, figures 9-10, claims 1, 8, and 13 in Paper No. 9 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

4. The disclosure is objected to because of the following informalities:

page 1, line 5 "Method and device --- --- liquid damper" should be --Method for adjusting the resistance of a hydraulic damper, device for realizing the same and variants--,

page 10, lines 4-5 "first and third main variants" should be --first main variant--,

page 10, line 32 and page 12, line 3 "second and fourth main variants" should be --second main variant--,

page 33, line 1 "Set of Claims" should be --What is claimed is: --,

Claim 1, line 7 "piston working liquid" should be --piston, working liquid--.

5. The drawings are objected to because "39" of part 13 in figure 10 is incorrect. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

6. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 8, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the cavity" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "a support of the elastic element" in lines 2-3. It is unclear if this support is the same or different from the one cited in claim 1, line 10

Claim 13 recites the limitation "the supply channel" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "a structural element" in line 30. It is unclear if this structural element is the same or different from the one recited in line 21.

Claim 13 recites "the possibility" in lines 14, 24, and 35. It is indefinite and unclear if it is included or precluded.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deferme (U.S. Patent Number 5,738,190) in view of J.B. Thomas (U.S. Patent Number 1,078,885).

Re-claim 1 Deferme discloses, as shown in fig. 3, a method for adjusting the resistance force of a liquid damper, a cavity 36 divided into at least two chambers, a compression chamber 42 and a expansion chamber 44, an excessive pressure is formed in the compression chamber during forward movement of said piston, working liquid flows through a compression channel 100 to the expansion chamber, the action of excessive pressure of the working fluid on parts of the damper creates a resistive force, wherein in order to adjust the resistive force of the damper a flow cross section of the compression channel is changed depending upon the value of the excessive pressure, the force of the excessive pressure acts on a movable element 102 of a compression valve 106, a current position of which determines a current linear size of a slit of said

valve and is balanced by an elastic force of an elastic element 110 of said valve.

However Deferme fails to disclose wherein controlled displacement is provided for at least one part whose relative position to another part of the damper affects the size of the flow cross section of the compression channel, the forward movement of the piston changes the position of those parts relative to one another, wherein each position of the piston in the working chamber sets a position of those parts relative to one another and a value of the flow cross section of the compression channel correspond to a constant value of the excessive pressure. J.B. Thomas teaches, as shown in figures 1-3, one part 15 whose relative position to another part 17 of the damper affects the size of the flow cross section of the compression channel, the forward movement of the piston changes the position of those parts relative to one another through the curved guide ribs 22, wherein each position of the piston in the working chamber sets a position of those parts relative to one another. It would have been obvious to one of ordinary skill in the art to have merely utilized the known adjustable damper into the device of Deferme, in view of the teaching of J.B. Thomas, in order to have variable adjustment to the damper depending upon road conditions so as to have a smoother ride.

12. Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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13. Claim 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

H.H. Hunter (U.S. Patent Number 1,242,103) discloses a shock absorber.

Mourray (U.S. Patent Number 4,610,332) discloses a velocity sensitive valve element for a shock absorber.

Bernhardt et al. (U.S. Patent Number 4,800,995) discloses an apparatus for damping courses of motion.

Yoshioka et al. (U.S. Patent Number 5,269,558) discloses a correction of asynchronous dampers in a suspension system.

Yamaoka et al. (U.S. Patent Number 5,277,283) discloses a variable damping-characteristics shock absorber with adjustable orifice.

Sapunarow-Ryffel (DE-3326275-A1) discloses a hydraulic shock absorber having a variable damping level.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 703-308-3427. The examiner can normally be reached on Mon.-Fri. from 9:00 A.M. to 3:00 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's


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supervisor, Jack Lavinder, can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

M. Sy

March 29, 2002


JACK LAVINDER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
3/29/02